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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

Federal Communications Commission
Office of the Secretary

In re the Matter of
Petition for Rulemaking
by American Mobile
Satellite Corporation

RM-7806

ORIGINAL
FILE

To: The Commission

OPPOSITION TO PETITION FOR RULEMAKING

Aerospace & Flight Test Radio Coordinating Council ("AFTRCC"), by its counsel, hereby opposes the above-captioned Petition for Rulemaking filed on June 3, 1991 by American Mobile Satellite Corporation ("AMSC"). The Petition addresses competing proposals by Ellipsat and Motorola (Iridium) for use of Radiodetermination Satellite Service ("RDSS") spectrum. The Petition also seeks allocation of more spectrum from the aeronautical telemetry band, i.e. 1515 - 1525 MHz, for the Mobile Satellite Service ("MSS"). There is absolutely no basis for AMSC's L-band request which should be summary rejected. Details follow.

INTRODUCTION

AFTRCC is an association of the nation's principal aerospace manufacturers which have a vital stake in the availability of radio spectrum for the development of new and improved aircraft and missiles. AFTRCC is also the non-Government

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coordinator for the flight test telemetry frequencies shared by Government and non-Government users.

In its earlier filings in General Docket No. 89-554 AFTRCC discussed in detail the dynamics of the flight test process, and the importance of the L-band flight test spectrum to the productivity and competitiveness of the U.S. aerospace industry. AFTRCC has also stressed the adverse implications of L-band reallocation for the national defense and the federal budget deficit.

DISCUSSION

In its Report in General Docket No. 89-554, adopted June 13, 1991 (FCC 91-188, released June 20, 1991), the Commission determined to add on the order of 118 MHz of spectrum for MSS purposes. Id. at ¶¶ 42, 67. Moreover, the agency rejected attempts to secure additional MSS spectrum below 1525 MHz. Compare ibid with Second Notice of Inquiry in General Docket No. 89-544 (FCC 90-316, released October 1, 1990) at ¶ 63.

Indeed, the very same allocation claims raised by AMSC in its Petition were addressed in the Report. AMSC seeks allocation of the band 1515-1525 MHz as a downlink to complement the band 1616.5 - 1626.5 MHz as an uplink; in the alternative AMSC seeks a 10 MHz chunk from 1850-1990 MHz, 2110 - 2130 MHz or 2160 - 2180 MHz for downlink purposes. Petition at 20. However, in its Report the Commission concluded not only that the 1610 - 1626.5 MHz band should be available for MSS, but also the entire bands (not

just 10 MHz) from 2110 - 2130, 2160 - 2180 MHz, 2390 - 2430 MHz and 2483.5 - 2500 MHz (plus some undetermined amount from 1850-1990 MHz). Id. at ¶¶ 42, 67 and A-28. Thus, AMSC has more than enough downlink (and uplink) spectrum.

AMSC's Petition could be rejected out-of-hand as an attempt to in effect reopen and reargue matters already resolved in the Report. See Rule 1.429. Alternatively, since the Petition was actually filed ten days prior to adoption of the Report, the Petition has already been acted upon with respect to allocation issues. Thus, it should be dismissed as moot pursuant to Rule 1.401(e).^{1/} If, despite the foregoing, the agency should wish to consider additional comments, AFTRCC would offer the following.

First of all, it is open to question just what standing AMSC has to seek more spectrum. While the Commission has issued a Tentative Decision (FCC 91-240, released August 2, 1991) which seeks to breathe life back into AMSC, its authorization is temporary only, and will remain under a cloud pending the resolution of the remand proceeding and possible further litigation in the courts. Thus, there is no basis for AMSC's implicit

^{1/} At the time AMSC filed its Petition the Commission had not yet issued its Report resolving the allocation issues addressed in AMSC's Petition. The Report having been adopted, there is no purpose to further consideration of AMSC's spectrum allocation claims and AFTRCC trusts the Commission will so rule (both in the context of RM-7806 and in the context of AMSC's contemporaneously-filed applications which seek authority to use L-band spectrum on a waived basis -- a request which is equally unfounded. See Applications at 6).

suggestion that it is somehow clothed with special authority to speak on behalf of MSS interests -- least of all given the emergence of other competing providers such as Ellipsat and Motorola to name two.

Second, AMSC has not yet activated its original allocation of 28 MHz, and is the potential beneficiary of at least an additional 118 MHz. AMSC is thus in no position to demand more. The fact that AMSC has done so confirms what has become a truism in spectrum management -- allocating spectrum for a new, untried service simply whets proponents' appetites for more.

Third, AMSC asserts that use of frequencies other than 1515 - 1525 MHz for a downlink would cost it between \$1 million and \$10 million more. An added cost of this order is a tiny fraction of what AMSC is prepared to visit upon aerospace manufacturers and the taxpayer in forced relocation costs -- yet there is not the slightest suggestion that the consortium is prepared to reimburse these costs. AMSC's private business considerations have no place in the resolution of spectrum allocation questions affecting the public interest and the competitiveness of the nation's single most important export industry.

AMSC asserts that reallocation of the band 1515 - 1525 MHz "would have little impact on aeronautical telemetry operations" Petition at 7-8. AMSC goes on to claim that sharing is possible, and that telemetry could operate in the remaining 80 MHz of the L-band or in the 2310 - 2390 MHz band.

AFTRCC has already demonstrated in detail why sharing with MSS will not work. See September 14, 1990 Reply in RM-7400; Reply Comments filed April 26, 1991 in General Docket No. 89-554. That discussion need not be repeated here but rather is incorporated by reference.

Furthermore, AMSC's proposal is at odds with Commission suggestions that the flight test community give up a substantial portion of the S-band, which is not nearly so heavily utilized as the L-band, for digital audio broadcasting. If this position is ultimately adopted, flight test users, which are already facing congestion at L-band (S-band was intended to be expansion spectrum for flight testing), will experience even more crowding and test delays.

Secretary of Defense Richard Cheney has characterized possible reallocation of even a portion of the L-band spectrum as having "a severe impact on weapons systems development ... from both an economic and technical standpoint;" has stated that the Department of Defense is "strongly opposed" to reallocation; and has characterized the issue as "critical" from the DoD perspective. See Attachment. In short from a public policy standpoint it would be foolhardy to re-allocate more L-band spectrum for MSS.

CONCLUSION

In the final analysis, AMSC's proposals may have more to do with opposing the competing applications of Ellipsat and

Motorola for use of the RDSS spectrum than AMSC's own spectrum needs. Indeed in a Request to Condition AMSC's Authorization filed September 18, 1991 in General Docket No. 84-1234, Ellipsat has suggested that AMSC's application for the RDSS frequencies represents a preemptive strike against the potential competition offered by LEO applications. See id. at 7-9. Whatever the primary purpose, however, there is no merit to AMSC's L-band request. Accordingly, the AMSC Petition should be denied if not dismissed.

Respectfully submitted,

AEROSPACE & FLIGHT TEST RADIO
COORDINATING COUNCIL

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Its Counsel

October 16, 1991



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

13 June 1991



Honorable Robert A. Mosbacher
Secretary of Commerce
Washington, DC 20230

Dear Mr. Secretary:

A draft US proposal for the World Administrative Radio Conference in 1992 that is before the Federal Communications Commission recommends a portion of the L-Band frequency spectrum used by the U.S. Government be reallocated to commercial satellite sound broadcasting. This critical portion of the radio frequency spectrum is heavily utilized by the Department of Defense (DoD) for aeronautical radio telemetry.

A reallocation of the telemetry frequency spectrum will have a severe impact on weapons systems development, testing and the integration of new technologies used in DoD airborne weapon platforms from both an economic and technical standpoint. The Department of Defense is strongly opposed to the FCC proposal.

The Department will continue to work closely with Assistant Secretary Janice Obuchowski in support of our position on this critical issue. Your personal support on this matter is appreciated.

Sincerely,

Dil Chung

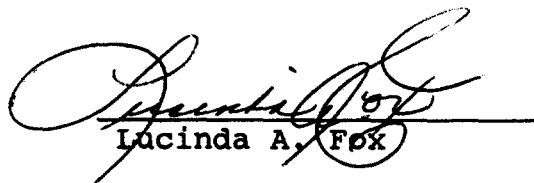
CERTIFICATE OF SERVICE

I, Lucinda A. Fox, hereby certify that I have this 16th day of October 1991 caused the attached "Opposition to Petition for Rulemaking" to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

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